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21 FORTRESS SYSTEMS  
22 d/b/a FSI NUTRITION

23 **UNITED STATES DISTRICT COURT**  
24 **CENTRAL DISTRICT OF CALIFORNIA**

25 ALACER CORP., a California  
26 corporation,

27 Plaintiff,

28 v.

FORTRESS SYSTEMS LLC, a  
Nebraska Limited Liability Company  
d/b/a FSI NUTRITION,

Defendant.

AND RELATED COUNTERCLAIM.

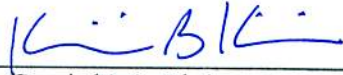
CASE NO. SACV09-01423 DOC (RNBx)

**STIPULATION OF DISMISSAL OF  
COMPLAINT AND COUNTERCLAIM**

1 IT IS HEREBY STIPULATED AND AGREED, pursuant to Federal Rule of  
2 Civil Procedure 41(a) and the terms of the parties' confidential Settlement  
3 Agreement, by and between Plaintiff ALACER CORP. and Defendant FORTRESS  
4 SYSTEMS, INC. d/b/a FSI NUTRITION, through their respective attorneys of  
5 record, to a dismissal without prejudice of the entire Complaint filed by Plaintiff,  
6 and the entire Counterclaim filed by Defendant, subject to the terms of the parties'  
7 confidential Settlement Agreement.

8 Respectfully submitted,  
9 CISLO & THOMAS LLP

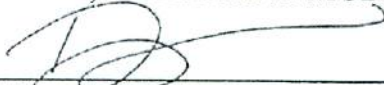
10  
11  
12 Dated: May 26, 2010

13 By:   
14 Daniel M. Cislo  
15 Kristin B. Kosinski

16 Attorneys for Plaintiff/Counterdefendant,  
17 ALACER CORP.

18 CARROLL, BURDICK & MCDONOUGH LLP

19 Dated: May 26, 2010

20 By:   
21 Sean P. Conboy  
22 Daniel H. Wu

23 Attorneys for Defendant/Counterclaimant,  
24 FORTRESS SYSTEMS, LLC d/b/a FSI  
25 NUTRITION  
26  
27  
28

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**PROOF OF SERVICE**

I am over the age of eighteen (18) years, employed in the County of Los Angeles, and party to the above-entitled action. My business address is 1333 2<sup>nd</sup> Street, Suite 500, Santa Monica, California 90401.

I hereby certify that the foregoing document entitled:

**STIPULATION OF DISMISSAL OF COMPLAINT AND COUNTERCLAIM**

is being served via U.S. Mail as noted below upon all counsel of record:

Camille L. Urban, Esq.  
Brown, Winick, Graves, Gross, Baskerville and  
Schoenenbaum P.L.C.  
666 Grand Avenue., Suite 2000  
Ruan Center  
Des Moines, IA 50309-2510

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☒ **BY MAIL:** I am readily familiar with the Firm's practice of collecting and processing correspondence for mailing. Under that practice, it would be deposited with the United States Postal Service on the same day with a postage thereon fully prepaid at Santa Monica, California, in the ordinary course of business. I am aware that, on the motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one (1) day after the date of deposit for mailing shown on this proof of service.

☐ **BY FEDERAL EXPRESS/OVERNIGHT DELIVERY:** I caused a copy of such document to be sent via overnight delivery to the office(s) of the addressee(s) shown above.

☐ **BY FACSIMILE:** I caused a copy of such document to be sent via facsimile machine to the office(s) of the addressee(s) at the phone number(s) shown above.

☐ **BY PERSONAL SERVICE:** I caused such envelope to be delivered by hand to the person(s) identified above.

I declare, under penalty of perjury under the laws of the United States that the foregoing is true and that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed on May 26, 2010, at Santa Monica, California.

  
\_\_\_\_\_  
Lisa Gazley

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